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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
ALPHAEUS JOHNSON,  
Defendant.

Case No. 2:16-cr-00272-APG-VCF

**ORDER TO VACATE  
PRELIMINARY HEARING**

The parties jointly request that this Court vacate the preliminary hearing on the petition to revoke supervised release because:

1. On May 5, 2022, Mr. Johnson had his initial appearance and detention hearing in the District of Nevada for new charges in *United States v. Johnson*, 2:22-cr-0096-GMN-DJA, ECF No. 3. At that hearing, the court ordered him detained.

2. On May 31, 2022, Mr. Johnson had his initial appearance and detention hearing for the Petition for Revocation of Supervised Release filed in this case. *See* ECF No. 68. At that hearing, the court ordered Mr. Johnson detained and scheduled a preliminary hearing. *Id.*

3. The Ninth Circuit has held that a defendant who is already in custody on new charges at the time of the revocation proceeding is not entitled to a preliminary probable cause

1 hearing. *United States v. Diaz-Burgos*, 601 F.2d 983, 985 (9th Cir. 1979); *United States v.*  
2 *Vasquez-Perez*, 742 F.3d 896, 899 (9th Cir. 2014).

3       4. In light of this authority, the parties stipulate to vacate the preliminary hearing  
4 on the petition to revoke Mr. Johnson's supervised release.

5                     DATED this 3<sup>rd</sup> day of June 2022.

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7             RENE L. VALLADARES  
8             Federal Public Defender

9             JASON M. FRIERSON  
10            United States Attorney

11            By s/ Katherine A. Tanaka  
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14            By s/ Melanee Smith  
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ALPHAEUS JOHNSON,  
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Case No. 2:16-cr-00272-APG-VCF

ORDER

Based on the stipulation of counsel, the Court finds that good cause exists to vacate the preliminary hearing.

IT IS THEREFORE ORDERED that the preliminary hearing set for June 6, 2022, at 2:00 p.m. is VACATED.

DATED this 3rd day of June 2022.

*[Signature]*

UNITED STATES MAGISTRATE JUDGE  
DANIEL J. ALBREGTS